

## **7 FAM 1700 APPENDIX C ABDUCTIONS INVOLVING PERSONS UNDER CHIEF OF MISSION AUTHORITY**

*(Office of Origin: CA/OCS/L)  
(CT:CON-485; 09-27-2013)*

### **7 FAM 1710 APPENDIX C INTRODUCTION**

*(CT:CON-485; 09-27-2013)*

- a. U.S. government employees and their family members assigned abroad are expected to abide by orders issued by competent courts regarding custody arrangements for their children. This Appendix provides guidance to post management as well as employees, and may also be shared with their family members who become involved in a custody dispute or alleged international parental child abduction.
- b. Post management should address child custody disputes that arise in their posts in an expeditious and sensitive fashion, and must seek guidance from the various Department offices identified below before taking any action.

### **7 FAM 1720 APPENDIX C REMOVAL OR RETENTION OF A CHILD MAY BE A CRIME**

*(CT:CON-485; 09-27-2013)*

Removal of a child from the U.S. or retention of a child outside the U.S. with the intent to obstruct the lawful exercise of parental rights can be a U.S. federal criminal offense under the International Parental Kidnapping Crime Act of 1993, and may also be a crime under the law of each U.S. state. Criminal offenses related to child custody issues may be extraditable offenses under U.S. extradition treaties and will be grounds for consideration of curtailment (3 FAM 2440) and/or disciplinary action (3 FAM 4300 and 3 FAM 4500).

### **7 FAM 1730 APPENDIX C POSSIBLE TREATY IMPLICATIONS OF REMOVAL OR RETENTION OF A CHILD**

*(CT:CON-485; 09-27-2013)*

The U.S. is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction and is obligated with respect to other parties to the treaty to assist in returning children wrongfully removed from or retained outside their place of habitual residence. While the application of this Convention to U.S. government officials assigned abroad with immunities is a complex issue, the Convention reflects a firm U.S. policy against a parent taking actions that violate another parent's custodial rights.

## **7 FAM 1740 APPENDIX C POST MANAGEMENT ACTION**

*(CT:CON-485; 09-27-2013)*

- a. Should post management become aware of an alleged abduction or unlawful retention of a child by a U.S. government employee and/or family member, it should encourage the employee or family member to resolve the matter to the satisfaction of all parties involved without the need for Department or U.S. government involvement.
- b. Post management should immediately notify the Office of Children's Issues in the Bureau of Consular Affairs (CA/OCS/CI) at askci@state.gov. While CA/OCS/CI has no authority to take personnel actions in cases involving U.S. government employees or family members, it can provide important factual information on international parental child abduction to employees and post management, and advise post management regarding the appropriate Department or other Agency offices that should be notified. The legal issues involved will normally require the advice of the Office of the Assistant Legal Adviser for Consular Affairs (L/CA), Diplomatic Law and Litigation (L/DL), Employment Law (L/EMP), and Management (L/M).

## **7 FAM 1750 APPENDIX C PERSONS UNDER CHIEF OF MISSION AUTHORITY AND COURT ORDERS**

*(CT:CON-485; 09-27-2013)*

- a. Generally, all U.S. government employees and their family members who are assigned abroad and under Chief of Mission authority are expected to abide by orders issued by competent courts regarding custody arrangements for their children, or to challenge those orders in an appropriate forum through proper legal channels.
- b. Competent court orders may include foreign court orders, as well as orders from U.S. state and federal courts. Any order from the courts of the country of

**UNCLASSIFIED (U)**

U.S. Department of State Foreign Affairs Manual Volume 7  
Consular Affairs

assignment regarding child custody or any other matter may raise immunities concerns and should be reported immediately by cable to the Department. Such cable should include the tag "KLIG". Post management can contact L/DL at Legal-DL-DL@state.gov for guidance on drafting such a cable.

## **7 FAM 1760 APPENDIX C REPORTING**

*(CT:CON-485; 09-27-2013)*

If an employee or family member abroad has an outstanding custody dispute that cannot be resolved, and is in apparent or possible violation of a court order, or if there are conflicting foreign and U.S. court orders in the same case, post management should immediately notify HR/ER/CSD (HR-ER-CSD@state.gov). If the employee does not work for the State Department, Post Management should contact the personnel office of the appropriate agency.

## **7 FAM 1770 APPENDIX C BEHAVIOR NOT IN BEST INTEREST OF THE POST - HUMAN RESOURCES ACTION**

*(CT:CON-485; 09-27-2013)*

- a. If an employee or family member refuses service of process when such service would not encroach on the individual's immunities or otherwise acts in a manner inconsistent with an applicable court order, or if it would be in the best interests of the post (e.g., if a custody dispute becomes disruptive to mission operations), Chiefs of Mission may request that the appropriate agency's human resources office consider appropriate action against the employee. Such action, which may also be initiated by the appropriate human resources office, may include but is not limited to curtailment to the U.S. and/or disciplinary action, in accordance with 3 FAM 2440, 3 FAM 4300 and 3 FAM 4500.
- b. Depending on the situation, amendment of an employee's or dependent's travel order or modification of allowances may also be involved.

## **7 FAM 1790 APPENDIX C ACTIONS REQUIRING PRIOR DEPARTMENT AUTHORIZATION - IMMUNITY**

*(CT:CON-485; 09-27-2013)*

- a. Post management and employees, including employees of all U.S. government agencies, must seek Departmental guidance before an employee or family

**UNCLASSIFIED (U)**

U.S. Department of State Foreign Affairs Manual Volume 7  
Consular Affairs

member initiates or participates in a court action (including a proceeding to seek judicial approval of a consented-to custody arrangement) or the filing of a Hague Convention application in the employee's country of assignment. As noted in 7 FAM 1750 APPENDIX C, such actions may raise issues involving the immunities of the employee or family member and such issues must be resolved prior to initiating or participating in such court action.

- b. While most employees at consulates do not enjoy immunity from civil actions unrelated to consular functions, and employees accredited as members of the administrative and technical staff at an Embassy do not enjoy immunity from civil actions unrelated to official functions, employees accredited as diplomatic agents at an Embassy enjoy comprehensive civil immunity. If there is any question of whether a particular employee is accorded immunity from civil actions, please contact L/DL at Legal-DL-DL@state.gov. An individual with civil immunity does not have the authority to waive his/her immunity. In addition, as described in 2 FAM 221.5, immunity for mission personnel and their dependents will not be waived by a post except with the prior express consent of the Department. Procedures for submitting a request to waive immunity and guidelines for approving such requests in domestic relations matters are detailed in 2 FAM 221.5.
- c. Employees should contact L/DL at Legal-DL-DL@state.gov to discuss issues regarding waiver of immunity. If necessary, an employee may request voluntary curtailment and reassignment to Washington in accordance with 3 FAM 2440 in order to pursue a Hague application or appropriate court action in cases where waiver of immunity in the host country cannot be granted.

## **7 FAM 1790 APPENDIX C EMPLOYEE RESPONSIBILITIES**

*(CT:CON-485; 09-27-2013)*

Employees are also reminded of their responsibilities when filing their Foreign Service Residency and Dependency Reports to provide copies of child custody orders or agreements related to their dependents and their responsibility to amend these reports whenever there are any changes in dependents.